IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO.2676 OF 2005

IN

CRIMINAL APPEAL NO. 272 OF 2005

Mr. Vijay Kamlakar Patil ... Applicant

V/s

The State of Maharashtra ... Respondents

Shri Girish Kulkarni for applicant

Shri A.S.Shitole,APP for the State.

Coram : V.M. Kanade, J.

Dated :03/05/2005.

P.C. :-

1 The applicant is convicted for an offence punishable under sections 363, 366 and 376 of the Indian Penal Code is sentenced to suffer R.I. for 5 years on the two counts and for 7 years for the last count.

2 The prosecution case is that the applicant took prosecutrix who was a girl between 15 to 16 years of age to the workshop and thereafter closed the shutter and removed her clothes and committed rape. In support of

prosecution

case, prosecutrix has been examined in which she has stated that the accused closed the shutter of the workshop and thereafter removed her clothes and committed rape on her. The medical evidence however does not support the evidence of prosecutrix. The doctor has stated that except abrasion near her private part there are no other injuries found on the person of the prosecutrix or her private part. The doctor has also stated that the accused might have attempted to commit rape on the prosecutrix. The hymen was found to be intact. The chemical analysis report also does not support the prosecutrix case as semen was not detected on her private part. There is no evidence to show that there was even a slight penetration. There is also a discrepancy in respect of her age. In my view, primafacie case is made out for the grant of bail. The applicant was on bail during trial. The applicant be released on bail in a sum of Rs.5000/- with one or two sureties in like amount. He shall report to Dahisar Police Station once in a month.

(V.M.Kanade,J.)